



# TCEQ FACT SHEET

March 1, 2007

## **The Texas Water Code places limits on the analytical data the TCEQ can use in regulatory decision making.**

In 2001, the 77<sup>th</sup> Legislature passed House Bill (HB) 2912, commonly referred to as the Sunset Bill. That bill, as amended in 2003 and codified in the Texas Water Code, requires the TCEQ to limit its acceptance of environmental data to only data generated by a laboratory NELAC accredited under the Texas Laboratory Accreditation Program; the bill lists few exceptions. “NELAC” is the [National Environmental Laboratory Accreditation Conference](#). That requirement becomes effective three years from the date the TCEQ publishes in the Texas Register announcing the TCEQ is an accrediting authority under the NELAC. On Friday, July 1, 2005, the agency announced its status as a NELAC accrediting authority in the [Texas Register \(30 TexReg 3904-5\)](#). Thus, the countdown has begun toward the statutorily defined deadline of June 30, 2008.

**To all data generators and persons submitting analytical data to the TCEQ, please note:** Analytical data generated after June 30, 2008 must be generated by a laboratory NELAC accredited under the Texas Laboratory Accreditation Program unless the laboratory or the project meets one of the following exemptions:

1. The laboratory is an in-house laboratory and is:
  - a. periodically inspected by the TCEQ; or
  - b. located in another state and is accredited or inspected by that state; or
  - c. performing work for another company with a unit located on the same site; or
  - d. performing pro bono work for a governmental agency or charitable organization.
2. The laboratory is accredited under federal law.
3. The data are needed for emergency response activities, and a laboratory accredited under the Texas Laboratory Accreditation Program is not available.
4. The laboratory provides data for which the TCEQ does not offer accreditation.

**Beginning July 1, 2008, the TCEQ will reject, without review or consideration, data generated after June 30, 2008 by a non-NELAC accredited laboratory, regardless of the circumstances under which those data are generated, if none of the allowed exemptions listed above is met.**

Laboratories intending to be NELAC accredited under the Texas Laboratory Accreditation Program by July 1, 2008 should have an application on file with the TCEQ by April 1, 2007. For more information on the agency’s accrediting authority, see the [Office of Compliance and Enforcement website](#).

For the statutory requirements regarding data used by the agency, refer to the [Texas Water Code Chapter 5, Sections 134 and 801 through 807](#).

For the agency rules implementing the statutory requirements, refer to the [30 Texas Administrative Code 25](#).

## Q&A on Statutory Deadline for NELAC Accreditation

In 2001, the 77<sup>th</sup> Legislature passed House Bill (HB) 2912 (aka “the Sunset Bill”). That bill, as amended in 2003, requires the TCEQ to limit its acceptance of environmental data to only data generated by laboratories NELAC accredited under the Texas Laboratory Accreditation Program; the bill allows few exceptions. (“NELAC” is the National Environmental Laboratory Accreditation Conference.) That requirement becomes effective three years from the date the TCEQ announces in the Texas Register its status as a NELAC accrediting authority. On Friday, July 1, 2005, the agency published that announcement in the Texas Register (30 *TexReg* 3904-5). Thus, the countdown clock has begun toward the three-year deadline of June 30, 2008.

Please be aware of this upcoming June 30, 2008 deadline. Below are frequently asked questions with the corresponding answer.

**Q1: What is NELAC?**

**A1:** “NELAC” stands for the National Environmental Laboratory Accreditation Conference. NELAC is a voluntary association of state, tribal, and federal agencies dedicated to establishing and promoting mutually acceptable performance standards for environmental laboratories. In the late 1980s, regulators and laboratories recognized a need for controlling the quality of environmental data as well as a need to reduce the burden of multiple and sometimes conflicting accreditation requirements imposed by various regulatory agencies. A cooperative effort evolved resulting in the formation of NELAC and the development of NELAC accreditation standards. More information about NELAC is available at the [NELAC website](#).

**Q2: What are the NELAC accreditation standards?**

**A2:** The NELAC accreditation standards are performance standards for environmental laboratories established by a voluntary association of state, tribal, and federal agencies with input provided by stakeholders from the environmental industry and environmental community.

**Q3: What is the benefit of the NELAC program?**

**A3:** For the first time, persons responding to rule and regulators alike will know the laboratories submitting data for commission decisions meet recognized standards for laboratory analysis and operation. All of the states holding NELAC accrediting authority have agreed to recognize accreditations issued by other entities holding NELAC accrediting authority. States not holding accrediting authority themselves accept NELAC accreditations issued by other states. A benefit of the NELAC program for Texas laboratories is its broad acceptance of accreditations.

**Q4: I am a laboratory. What do I need to do?**

**A4:** For data generated on or after July 1, 2008 and with certain exceptions as allowed in the statute, the TCEQ will only accept data generated by a NELAC accredited laboratory. Consequently, all laboratories planning to generate analytical data on or after July 1, 2008, for submission to the TCEQ, will need to attain NELAC accreditation by June 30, 2008. TCEQ began accepting accreditation applications in the summer of 2005. The Remediation Division recommends to laboratories seeking accreditation under the Texas Laboratory Accreditation Program to have their application on file with the agency by April 2007. Laboratories may apply for accreditations in all media and for all types of analyses. Application information is available on the agency’s web site at [http://www.tceq.state.tx.us/compliance/compliance\\_support/qa/env\\_lab\\_accreditation.html](http://www.tceq.state.tx.us/compliance/compliance_support/qa/env_lab_accreditation.html).

**Q5: I am currently collecting data for a project, and the APAR for the project will be submitted after July 1, 2008, what should I do?**

**A5:** Consult with your laboratory to determine if the laboratory currently holds primary or secondary NELAC accreditation under the Texas Laboratory Accreditation Program (TLAP) or if the laboratory is currently pursuing accreditation. If the laboratory is neither, advise your laboratory of this statutory requirement. **Note:** Beginning July 1, 2008, the TCEQ will reject, without review or consideration, all data generated after June 30, 2008 by non-NELAC accredited laboratories, regardless of the circumstances under which those data are generated when the person can not demonstrate one of the statutory exemptions is met.

**Q6: What are the exemptions allowed by the statute?**

**A6:** Per the TWC §5.134, the agency is allowed to accept data generated by a non-NELAC accredited laboratory when:

1. The laboratory is an in-house laboratory and is:
  - a. periodically inspected by the TCEQ; or
  - b. located in another state and is accredited or inspected by that state; or
  - c. performing work for another company with a unit located on the same site; or
  - d. performing pro bono work for a governmental agency or charitable organization.
2. The laboratory is accredited under federal law.
3. The data are needed for emergency response activities, and a laboratory accredited under the Texas Laboratory Accreditation Program is not available.
4. The laboratory provides data for which the TCEQ does not offer accreditation.

**Q7: June 30, 2008 has not passed, and I am currently collecting data generated by a laboratory not holding NELAC accreditation. I want to use those non-NELAC data in a report I will submit to the agency after July 1, 2008. Will the TCEQ accept those non-NELAC data?**

**A7:** The Remediation Division will accept non-NELAC data in a report submitted on or after July 1, 2008, provided those non-NELAC data were generated on or before June 30, 2008, **and** those data are of sufficient and documented quality to meet the project objectives. Regarding non-NELAC data generated prior to July 1, 2008:

- Under the TRRP rule (30 TAC 350) and per §350.54, the laboratory used to generate the data must be generally consistent with NELAC and/or the guidance in the International Organization for Standardization 17025 (ISO 17025), and the data quality must be of sufficient and documented to meet the project objectives, as discussed in the guidance [Review and Reporting of COC Concentration Data \(RG-366/TRRP-13\)](#).
- Under the Risk Reduction Rules (30 TAC 335), the data must be of sufficient and documented quality to meet the project objectives. For the 30 TAC 335 rule, guidance is provided in the [July 23, 1998 TCEQ memo](#) (aka “the Consistency Memo”).
- Under the Petroleum Storage Tank rules (30 TAC 334), the data must be of sufficient and documented quality to meet the project objectives. Guidance is provided in the document [Investigating and Reporting Releases from Petroleum Storage Tanks \(PSTs\) \(RG-411\)](#).

**Q8: Is there a list of accredited laboratories and their fields of accreditation available?**

**A8:** Yes. The list of accredited laboratories and their fields of accreditation is available on the Texas Laboratory Accreditation Program's webpage at [http://www.tceq.state.tx.us/assets/public/compliance/compliance\\_support/qa/txnelap\\_lab\\_list.pdf](http://www.tceq.state.tx.us/assets/public/compliance/compliance_support/qa/txnelap_lab_list.pdf)

**Q9: How can I find more about NELAC?**

**A9:** More information about NELAC is available on-line at <http://www.nelac-institute.org/>. Information regarding NELAC accreditation under the Texas Laboratory Accreditation Program can be accessed from [http://www.tceq.state.tx.us/compliance/compliance\\_support/qa/env\\_lab\\_accreditation.html](http://www.tceq.state.tx.us/compliance/compliance_support/qa/env_lab_accreditation.html).

**For questions regarding requirements for the laboratories during the accreditation process,** contact the Texas Laboratory Accreditation Program at 512-239-3754.

**For questions regarding the Remediation Division's implementation of HB2912,** contact the program area or the general call-in line at 512-239-2200.